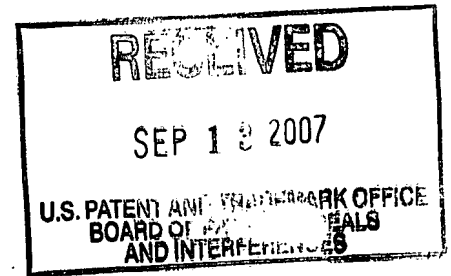


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPELLANT: RONALD J. BOSER
FOR: A REMOVABLE BRASSIERE CUP SUPPORT
SERIAL NO.: 09/944,612
FILED: September 4, 2001
EXAMINER: Gloria M. Hale, Patent Examiner, Art Unit 3765

REPLY TO
EXAMINER'S ANSWER

Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450



Sir/Madam:

Appellant stands on its argument of its SUPPLEMENTAL APPEAL BRIEF, supplemented by the brief comments which follow.

The Examiner has not objected to the claims usage of the VELCRO trademark by using form paragraph § 6.20 of PMEP 608.01(v) as follows:

¶ 6.20 *Trademarks and Their Use.*

The use of the trademark [1] has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Appellant has capitalized the mark VELCRO and followed same with the generic designations “hook-type fastener” and “loop-like fastener.”

The Examiner argues that “[o]nly the generic terminology, i.e., ‘hook-like type fastener’ and ‘loop-like fastener,’” should be used in the claim. Additionally, due to the proprietary nature of the trade name VELCRO and past complaints by the owner thereof, the use in claims should be avoided. (underlining added.)

Firstly, VELCRO is not a trade name, but is a trademark.

Secondly, the existence of past complains is not of record in this appeal.

At EXAMINER’S ANSWER, page 10, in lines 9, 10, the examiner argues “Applicant has not claimed a method of wearing the brassiere with or without the underwire as he is now arguing” which may be technically correct, putting form before substance, because the claim does not use the word method in the preamble following by the method steps of comprising the steps of, but the claim on appeal recites:

whereby removal of said attached cup support in an exercise of a second option exposes said VELCRO loop-type attached strip which is characterized by a nominally felt presence to the touch contributing to comfort in the wearing of the brassiere.

Only the appellant/applicant uses to advantage “a nominally felt presence to the touch [of the VELCRO loop-type fastener]” contributing to comfort in the wearing of the brassiere.

At EXAMINER’S ANSWER, page 9, in line 9-13, the Examiner argues an experience not of record in this appeal and therefore to be entirely discarded that:

Many women, like myself have thrown away bras where the underwire has poked through the sheath fabric and fallen away from the bra in the dryer instead of trying to feed the underwire back into the sheath since such a task can be quite tedious since it can be similar to feeding a draw cord/drawstring back into a sweatpants waistband tunnel/sheath.

It is respectfully requested that the rejection of the claim on appeal be reversed.

Respectfully,

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